



SEASON 5 EPISODE 4

## Grand Juries, the Black Box of Justice Reform?

Grand juries are supposed to safeguard against the government charging people with a crime when it lacks sufficient evidence. But because prosecutors control what happens in grand jury proceedings, they almost always get an indictment. That is, unless the accused is a police officer. Reporter Mark Betancourt explores a case of police brutality in Dallas that evaporated after going before a grand jury.

Mitzi Miller:

I'm Mitzi Miller, and this is 70 Million. Grand juries are sometimes referred to as the sword and the shield. In their role as jurors, a group of everyday citizens [determines whether there is enough evidence to charge a person with a crime and to protect them from unfounded criminal prosecution](#). Though grand juries seem like the pinnacle of justice and fairness, the truth is that prosecutors control what happens in the room.

They decide what evidence is presented and who will testify. Although some court staff may be present, [the proceedings take place in complete secrecy](#). Some have taken it upon themselves to shine a light on how the grand jury system is rigged to favor prosecutors. Without an act of rogue truth-telling, no one would know how it was done in one case in Dallas. Mark Betancourt brings us the story. A quick note. This episode contains descriptions of police brutality and references to racial slurs. Please take care of yourself as you listen. Listen with someone who can support you or read the transcript if that's more comfortable for you.

Mark Betancourt:

Back in November 2021, Jantzen Verastique, Dondi Morse and Parker Nevilles were sitting at a restaurant in Dallas, Texas and they were trying to decompress. [They had just testified](#) in front of [a grand jury](#). They were testifying about something that happened the year before in May 2020, while they were protesting against police brutality in the wake of George Floyd's murder. During the protest, a Dallas police officer, Roger Rudloff, [shot Jantzen in a chest with pepper balls](#).

[That's a less lethal weapon](#). Rudloff also kned Parker in the belly before he and other officers arrested them. They saw this treatment as brutal and unnecessary, especially in the context of why they were there that day. After more than a year of trying to hold Rudloff accountable, they finally had the chance to tell their story to a grand jury, fellow citizens who would [decide whether he would be charged with a crime](#). Here's Parker.

Parker Nevilles:

Going in, I was pretty optimistic. Coming out, I was like, "I don't know."

Betancourt:

And here's Jantzen and Dondi who were together when I interviewed them about that day.

Jantzen Verastique:

That was supposed to be big, right? It was supposed to be the end all, be all.

Dondi Morse:

You think it's going to be like what you would see on TV naively and stupidly, but...

Verastique:

It was not that at all. There're no checks and balances. It always was what it was going to be. I don't know why they even ask for testimony.

Betancourt:

Verastique and Dondi and Parker had been thinking of the grand jury as a big deal. In Texas, [all felonies have to be brought before a grand jury](#) before they can be tried. If the [Dallas County District Attorney John Creuzot](#) brought the case to the grand jury, they hoped it was because he thought Rudloff was guilty of a felony and should be brought to trial and punished. After all, that's what prosecutors do. They try to win cases against people they think have committed crimes. The grand jury is supposed to be a check on that power. They're supposed to make sure the prosecutors are acting fairly.

In this episode, we'll talk about how grand juries can't do that job very well anymore. How they've actually become [a tool of prosecutors](#), including when the accused person before them is a police officer. Before we go back to the beginning of Jantzen and Parker and Dondi's story, let's establish what a grand jury is. [A group of citizens, anywhere from 5 to 23](#) of them who decide whether there's enough evidence to try a criminal case in court. That decision is called an indictment. It tells the prosecutor there's [probable cause to charge a person with a crime](#). Not that they're guilty, just that they might be.

Ric Simmons:

[Grand jury's one of the oldest institutions](#) we have in the criminal justice system. They're over a thousand years old. Even before we had trial juries, we had grand juries.

Betancourt:

[Ric Simmons](#) is a law professor at Ohio State University's Moritz College of Law, and an expert on grand juries. He also used to be a prosecutor in New York City.

Simmons:

The purpose was make sure the government couldn't essentially go after political opponents or go after people that didn't deserve to be prosecuted. There's a famous case right before the American Revolution where someone, an American colonist essentially published some anti-British stuff in a pamphlet. British prosecutor tried to go after him. The grand jury stopped that. That became a big cause. That's why the grand jury was written into our constitution.

Betancourt:

Federal prosecutors, along with 48 states and the District of Columbia [use grand juries](#). In 20 of those states and DC, grand juries are mandatory in certain cases. The rest leave it up to prosecutors whether to use them. If they don't use a grand jury, prosecutors have to establish probable cause in what's called a preliminary hearing before a judge. Unlike trial juries, grand juries don't need to reach a unanimous

decision. In Texas, for example, only 9 of the 12 jurors need to agree to indict. The other big difference, [there's no defense attorney](#). There's no judge. It's just the grand jury and the prosecutor. Ric says, "That's become a problem."

Simmons:

If the prosecutor wants to indict a case, they can easily indict the case by bringing it to grand jury, presenting what we call a bare bones presentation, only one side of the case, and then if they want that indictment, they can get it. The grand jury's original purpose, which is to ensure there's probable cause has essentially become irrelevant.

Betancourt:

Case in point, virtually [all federal grand jury cases end in indictment](#), which brings us back to prosecutors holding police accountable for breaking the law. There's no comprehensive data, but unlike with grand jury decisions on the whole, [only a fraction of grand jury cases involving police end in indictment](#). According to the Houston Chronicle from 2008 to 2012, Dallas County grand juries reviewed 81 police involved shootings. [Only one officer was indicted](#).

Simmons:

The prosecutor has a choice about what to do when they get a police brutality case or a police lethal use of force case. They can essentially present the same bare bones, pro-prosecution, rubber stamp case that they always present in normal cases, get the indictment and move forward. That doesn't happen very often because the prosecutor wants to use the grand jury, serve as a tool to avoid accountability. What instead we sometimes see is a prosecutor presenting almost a pro-defense case to the grand jury.

Betancourt:

In other words, it's rigged. Like a lot of people in the United States, Jantzen and her friends suspected as much, but they were shocked by the obstacles put in their way. They didn't know about those obstacles because grand jury proceedings are totally secret. More on that later. Jantzen's dad is Mexican and her mom's white. She's the mother of two adopted sons who are Black.

She's been active at all kinds of social justice protests, including for women's rights and gay rights and for racial equality, but when [George Floyd was murdered by a police officer](#) in Minneapolis on May 25th, 2020, she felt it was especially urgent to get out and make her voice heard. She decided to [join the protest](#) forming in downtown Dallas later that week. She wanted her boys who were two and four at the time to come with her.

Verastique:

Just like having that conversation. "Unfortunately, people don't treat you how they treat mommy," and we're going to go, and the hopes is that we make people realize that that's a real thing and how we can change that.

Betancourt:

Dondi is Jantzen's best friend and she's white, but she came to it from a similar place. Her daughter is Hispanic.

Morse:

We live in a predominantly white affluent area. There's really no other way to put it. Our kids have different experiences than most of the other kids that live in close proximity to us, so it's personal.

Crowd:

[No justice, no peace. No justice, no peace.](#)

Betancourt:

This sound was recorded by filmmaker Kurtz Frausun in downtown Dallas on Saturday, May 30th, the day Jantzen and Dondi headed there to protest. Both had been to race-related protests before, but as soon as they got downtown, they were struck by the intensity of this one.

Verastique:

It just felt bigger than it had normally happened. This isn't the first time that something like this has happened.

Betancourt:

The Black Lives Matter movement had gained momentum six years earlier in 2014 when [Eric Garner was killed by a police officer](#) in New York. Then [Michael Brown was killed by a police officer](#) in Ferguson, Missouri. Then [Tamir Rice](#) in Cleveland. In each case, grand juries had declined to indict the officers involved, so they never went to trial. By the time [George Floyd](#) and [Breonna Taylor](#) were killed by police in 2020, the anger in the country had reached [a breaking point](#). This is more of that sound from Kurtz Frausun's camera. The night before, protestors had [thrown bricks and rocks and water bottles at police, and police had pushed back with tear gas and rubber bullets](#). But Dondi says that the vast majority of what they saw in downtown Dallas on the morning of May 30th was peaceful.

Morse:

With the exception of one guy that I saw who tagged something, everyone there was there for the right reasons. We wanted to continue being a part of that.

Betancourt:

After taking a break for lunch, they left the kids with Dondi's partner and rejoined the crowd.

Morse:

The mood has changed drastically. There are tanks in the streets. Every type of law enforcement imaginable is posted up on every corner of the street and they're blocking off the streets. The crowd is being kettled and pushed in one direction. There's nowhere else for people to go.

Betancourt:

When the police blocked off streets, some protestors threw things at them, or dragged signs and trash cans into the street. Jantzen and Dondi say the police reacted as if everyone was hostile.

Morse:

I saw them screaming at people, tear gassing people in very close proximity. They were just roughing people up and there was really no rhyme or reason to it. It's just that it literally just looked like that's what they felt like doing, so that's what they did.

Verastique:

It was like Call of Duty.

Morse:

Yeah.

Verastique:

Literally.

Betancourt:

Dondi says the aggression was racially charged.

Morse:

I heard them use the term monkey. I heard them use the N-word repeatedly.

Betancourt:

In one [body cam video](#), a protestor is standing still in the street when a police officer shoots him at long range with a rubber bullet. Off camera, other officers laugh.

Police Officer 1:

Good shot, sir.

Betancourt:

And one says, "Good shot, sir." Eventually, Dondi says the police pushed the crowd toward the highway, Interstate 35. Some protestors decided to block traffic. Jantzen and Dondi say they didn't go onto the highway. They stayed in [a little grassy area to the side](#), but Parker was on the highway. He hadn't done much protesting before that day. He had actually come downtown to pick up the trash left behind by the protestors.

Nevilles:

We are completing the objective of cutting off traffic.

Betancourt:

Parker had his phone out recording video at the moment the police made their move.

Nevilles:

When the cops, they came over the median and they straight up open fire.

Betancourt:

The police were [firing pepper balls](#), projectiles filled with a chemical powder or liquid that works like pepper spray.

Nevilles:

I got hit. I immediately got hit right in the ankle and it's worse than getting hit with a paintball. You immediately start crying. You taste it. Your tongue starts to catch... It feels like it's on fire.

Betancourt:

From their vantage point, Jantzen and Dondi could see people suddenly running off the freeway onto the grassy area where they stood.

Morse:

A wave of cops come up over this hill and we see these people. They target this one small group of Black people. It was specific only Black people, a group of Black people right over there in the corner, and one of the women is actually being carried because she's been injured. She cannot walk, so there's two other people trying to help carry her. We just took off running after them trying to yell at the cops and tell them, "Hey, she's injured. They're not doing anything wrong. Please lay off of them," and that's not what happened.

Verastique:

They had put a couple of people on the ground with their knees on their back and it was just wild. That's when the officer came up to me and just immediately pointed his weapon at me and I stopped dead in my tracks and put my hands up.

Betancourt:

The officer was [Sergeant Roger Rudloff of the Dallas Police Department](#). According to records later unearthed by the *Dallas Morning News*, he'd been accused of beating a Black man with a flashlight in two separate incidents and choking a Black woman. Since 1998, eight people had [accused him of using inappropriate force on the job](#). 13 had accused him of making racist remarks, but he'd rarely been disciplined, let alone prosecuted, and now he was part of the wave of cops throwing protestors to the ground and [he had a pepper ball launcher aimed right at Jantzen](#).

Verastique:

It looked like a giant gun. I'm not privy to that type of stuff. It looked terrifying and huge and like it could kill me. I immediately put my hands up and said, "I'm not moving. My hands are up." He screamed something and I don't even remember what it was now, and it was just boom, boom, boom, straight three pepper bullets to the chest. I remember screaming.

At that point in time, it took a second to realize what it was and that I wasn't going to die because it hurt so bad and it burned because it's a pepper bullet. It hits you and then essentially explodes so you can't breathe. I turned, I grabbed my chest. I remember turning and falling and I remember feeling his body on top of me and then he handcuffed me. Well, he used the ties, like zip ties-

Morse:

The zip ties.

Verastique:

... and handcuffed me behind my back.

Morse:

And after he shot you, he turned and pointed at me and told me to get on the (censored) ground or I would be next. I got on the ground immediately and then started shouting at him.

Betancourt:

Parker didn't know Jantzen or Dondi then, but he headed toward them for the same reason they'd headed toward the Black protestors.

Nevilles:

I didn't have any plan. I didn't know what I was going to do, what I wanted to do, but I started running up the service road shouting, yelling some obscenities at the police that I think were warranted in the heat of the moment. (Beep) you. (Beep) (beep) you.

Betancourt:

A passing driver [recorded video as Parker approached screaming at the police](#).

Roger Rudloff:

On the ground. On the ground. Get your hands up.

Betancourt:

Then you can hear Rudloff telling Jantzen to stay on the ground-

Verastique:

I can't breathe.

Betancourt:

... as she screams that she can't breathe.

Rudloff:

Keep your hands behind your back.

Nevilles:

Rudloff sees me, he turns to me and he starts marching over towards me.

Police Officer:

Get on the ground.

Betancourt:

[This moment](#) was captured on the body camera of another police officer who was also yelling at Parker to get on the ground.

Nevilles:

He's getting in my face and I'm yelling back at him and he grabs my hair and I think that he's going to knee me in the face. I thought he was going to bring my head down and just break my face, but luckily, I guess he takes a knee and he puts it right into my abdomen and that puts me on the ground pretty quick. He hops on top of me and he puts his knee directly on the back of my neck, which in that moment, I'm like, "Man, this is exactly how George Floyd died."

Verastique:

It was a surreal moment. I was like, "This is exactly why I'm here," and this is exactly what they do to people. They just don't use pepper bullets on Black people, and I have Black kids, so the situation looks vastly different for them. Yeah, I just remember being scared and I remember screaming at them like, "This is exactly why we're here. Exactly how y'all are acting is exactly why we're here."

Betancourt:

The police [arrested Jantzen, Dondi, and Parker and dozens of other people](#) in the area and piled them into vans.

Morse:

Why are we being arrested? Why? And they never would answer. They didn't even know why we were there when we finally arrived at the jail. There were no charges for any of us. There was no paperwork, there was nothing.

Betancourt:

They spent a night in jail packed in with other protestors during the onset of the COVID-19 pandemic. They made bail the next morning. Even now, it's not clear what they were charged with. It was either riot participation or obstruction of a roadway, but those charges were later dropped.

Morse:

It was a traumatic experience, so it took a little bit to decide what to do next.

Verastique:

I absolutely felt like someone needed to be held accountable and that people needed to know what happened.

Betancourt:

They began by getting a lawyer, David Henderson.

David Henderson:

There's no such thing as a good police brutality case. I say that because overwhelmingly, the police get away with misconduct and the law doesn't do much to hold them accountable.



Betancourt:

[David had worked in the Bexar County district attorney's office](#) and then turned to private practice doing civil rights law. He was working on a class action case against the Dallas Police Department for arresting people who were peacefully exercising their first amendment rights during the 2020 protests. His team was also representing protestors who had been harmed by the police.

Henderson:

I was honest with our clients. I think it's an uphill battle, especially in this part of the country, but it looked like a case we wanted to be involved with because of the severity of what happened.

Betancourt:

David helped Jantzen, Dondi and Parker submit formal complaints to the Dallas Police Department about Sergeant Rudloff's behavior at the protest. That triggered an internal police investigation. Rudloff told the Dallas Morning news he shot Jantzen because she didn't follow his instructions. His lawyer claimed she had acted aggressively toward him. Despite the fact that there were photographs, video, and several eyewitnesses of the incident, the police department [dropped its investigation](#), but the district attorney, the county prosecutor, who has the power to charge people with crimes could still do his own investigation. At first, David was optimistic.

Henderson:

Initially, the DA contacted our clients and said that he wanted to know what happened. In that regard, I thought it was promising that you'd likely see some accountability from the police officers because he didn't have to reach out to them and do that.

Betancourt:

John Creuzot, the Dallas County district attorney is part of a wave of [progressive prosecutors](#) elected across the country in recent years. He promised not to prosecute people for [stealing necessary items](#) like baby formula or for [first time marijuana possession](#), and he's gone after police for inappropriate use of force before. After the police dropped their investigation and after Jantzen's story started getting a lot of press coverage, Creuzot announced he was pressing felony charges against Sergeant Rudloff. That meant the case would go before a grand jury. Jantzen, Dondi and Parker each got a call from an investigator at the district attorney's office asking if they'd be willing to testify.

Nevilles:

He phrased it like I had a choice, but he was like, "Would you like to be a witness in the grand jury against the case of Rudloff tomorrow?" And I'm like, "Tomorrow?"

Betancourt:

It seemed like short notice for a case that was a year and a half old, but Parker wanted to see Sergeant Rudloff held accountable and he didn't really have a choice. The grand jury could subpoena him if he refused.

Nevilles:

In eight hours, I'm going to be at the courthouse. I'm like, "What am I supposed to do?" I called my mom and my voice was shaking.

Betancourt:

David would not be allowed in the hearing and he couldn't do much to prepare Parker, Dondi, and Jantzen.

Henderson:

The first rule we tell them is tell the truth and just make sure that you are open with the grand jury, that you answer their questions and that you explain things to the best of your ability.

Betancourt:

The only other guidance they got was from an investigator from the DA's office just before they went in to testify.

Morse:

He came out and gave us a pep talk.

Verastique:

He was sitting outside.

Morse:

Told us what the expectations were just in terms of [super secrecy](#), and that's literally the term that he used, that everything that transpires in there is super secret. We're not permitted to speak about it with anyone, not anyone that was in there with us, not our friends, not our family, not anyone.

Betancourt:

Grand juries have been secret proceedings for hundreds of years. The secrecy started as a way to protect the reputation of the accused. In today's mass media climate, it's impossible to keep the existence of grand jury investigations secret anymore, but we still hide what happens in them. The secrecy was also meant to prevent witness tampering. Even in trial juries, which aren't secret, that rarely happens.

What we're left with is this process that hands a lot of power to prosecutors to direct grand jury proceedings with very little public scrutiny of how they do that. Jantzen and Dondi and Parker were about to cross into that secret world and the first thing they saw there blindsided them. When each of them walked into the hearing room and sat down at the witness stand, they saw a blue and white sign posted right in front of them so that only they could see it. It read, "[Do not mention race while testifying.](#)"

Nevilles:

It was shocking and it's like, "That's why I went out there," because a Black man was unjustly murdered by the police. That sign, it was just like, "What the hell are we here for?"

Betancourt:

Suddenly, they had to edit out a big part of their testimony while they were giving it.

Nevilles:

You would get asked a question and I would have an answer immediately, but then I'm like, "I've got to rephrase this answer. I've got to tiptoe around what I really want to say." It was just shocking and bizarre.

Morse:

For me, it all became moot and pointless and useless. It just rendered me dumbfounded. I didn't really know what to do or how to answer questions.

Verastique:

It was racially charged the entire time, so to leave race out was impossible.

Betancourt:

Jantzen, Dondi and Parker are not allowed to talk about the testimony they gave or questions they were asked, but to get a sense of how the sign affected their testimony, here's what parts of the story they told me would sound like with any mention of race just missing.

Morse:

A wave of cops come up over this hill. They target this one small group of people.

Verastique:

It was specific only (censored) people, a group of (censored) people right over there in the corner.

Morse:

I heard them use the term (censored). I heard them use the (censored) repeatedly.

Verastique:

It was like a surreal moment. I was like, "This is exactly (censored)." And this is exactly what (censored). They just don't use pepper bullets on (censored). And I have (censored) kids and yeah, I just remember being scared.

Betancourt:

Each of them testified for only about half an hour. Then the investigator from the DA's office led them outside.

Morse:

And he thanked us for being upstanding citizens, and I could tell by his tone and his choice of words that he already knew what the end result would be, and he was worried that we were going to get caught up with the press because there was press outside of the courtroom. He was actually trying to usher us out a back way.

Betancourt:

Waiting outside was Miles Moffeit, a reporter from the Dallas Morning News who had been publishing story after story about the case. They figured he should know about the sign, that everyone should know about it, but they'd just been sworn to super secrecy.

Verastique:

At the end of the day, we're active members of society. I have a great life. I'd like to keep it that way. I don't need to run in with the police. Also don't want to get in trouble, but then you don't know what to do. I think it's important that people know about this procedure because it discredits so much. They should know. I was terrified. I was like, "Could we possibly get arrested for this? Could we be in trouble for this?"

Betancourt:

Revealing what happens in a grand jury proceeding can come with [contempt of court charges and a fine or even jail time](#). David says that because it's not about the substance of the hearing they testified in, they couldn't get in trouble for talking about the sign, but the super secrecy talk they'd had before testifying gave them pause. It wasn't enough to stop them. They went out the front of the building straight to Miles and told them about the sign.

Later, he found his way into the hearing room and snapped a photo of it. While they were doing the mental gymnastics of editing themselves, Jantzen, Dondi and Parker had also wondered whether the sign was normal. Was it always there or only for certain cases? Who put it there? Did the members of the grand jury know about the sign and that it was the reason they were stumbling through their testimony? David wondered too.

Henderson:

We've asked these questions to people throughout the process. We receive different answers from different people at different times.

Betancourt:

David was even more in the dark not being allowed in the proceeding. One of his questions, does the prosecutor recommend to the grand jury whether they should indict or not?

Henderson:

Initially, we were told that the DA's office does not make any type of a recommendation to the grand jury, which makes no sense to me. That's like you going to your doctor and your doctor asking you, "What do you think I should do here? X-rays, CT scan, MRI," and your response is, "You're the doctor. You're the expert. You tell me what you think we should do." They said, "Well, when we present cases to the grand jury. We just present the facts and let the grand jury decide."

There are lots of problems with that approach, not the least of which is the DA decides what information they present to the grand jury and there's no one there arguing for the other side. You don't have to make a recommendation to determine the outcome, but they said initially, "We don't make recommendations to the grand jury," period. We later learned they don't make recommendations for police officers. When that surfaced, then the DA came out and made a statement. He said, "Okay, well [from now on then, we won't make recommendations for anyone](#), police officer or otherwise."

Betancourt:

The DA also changed tack when asked about the sign in the grand jury room telling witnesses not to mention race.

Henderson:

The initial answer I expected to hear was, "We put this sign up here to make sure that there's no bias during grand jury proceedings when information is being presented by prosecutors or police officer witnesses," but that's not what the response was. The response seemed to be, "I don't know," like from Scooby-Doo. No one knows who put it there or when or why or what impact it's having on grand jury proceedings.

Betancourt:

Miles, the Dallas Morning news reporter uncovered that the sign had likely been there for decades. When he told Creuzot, the district attorney, about Jantzen's experience testifying, Creuzot said quote, "Okay, maybe we need to rethink the sign." It seems like a small thing, the sign, but in Jantzen's case, it made a big difference or at least they thought it might.

The thing is, the public hadn't known about the sign or how many testimonies had been altered because of it, because of the veil of secrecy around the grand jury. The sign is just one of many procedural details in grand jury rooms all over the country that we know nothing about. Ric Simmons, the grand jury expert at Ohio State says that's a big part of the power we give to prosecutors.

Simmons:

When a prosecutor does present a case to a grand jury, we don't know what the prosecutor told the grand jury. When the prosecutor comes out afterwards and says, "Well, the grand jury didn't indict," we don't know what kind of case they've brought unless the state has some kind of sunshine law or some way to get at those records.

Betancourt:

The federal government and most states don't have grand jury sunshine laws, but [some states allow the airing of grand jury materials](#) including evidence and testimony when it's in the public interest. That's been done in some famous police brutality cases. A Kentucky judge [allowed grand jurors in the Breonna Taylor case to speak out](#) when they disagreed with how the prosecutor explained their decision.

The prosecutor who brought charges against the officer who killed Michael Brown in Ferguson, Missouri [released transcripts of the entire grand jury proceeding](#) hoping to quell public outrage about the result, but those are well publicized cases with whole movements rallying around them. If Jantzen and Dondi and Parker hadn't spoken up about the sign preventing them from discussing race in their testimony and Miles hadn't reported on it, it's likely we never would've heard about it. David thinks in this case, the secrecy of grand juries gave DA Creuzot a pass.

Henderson:

Initially, it seemed like he cared. I have to believe that's why he was reaching out to people. Over the course of the investigation though, it seemed like he was interested in making it seem like he cared but wasn't actually prepared to do anything. We've seen that [consistently](#) from his office when it comes to any version of police misconduct. He will say he cares, that he wants to do something about it, but he never actually takes action.

Betancourt:

Ric says that's a valid concern.

Simmons:

The most common criticism of prosecutors with police lethal use of force or police brutality cases is that the police and the prosecutors work together very closely. There's somewhat of a conflict of interest. The prosecutor depends on the police officers, police departments for a lot of the work that it does, so when a police officer misbehaves, commits a crime, or even commits what could be a murder, many prosecutors are unwilling to or at least reluctant to bring those charges against that police officer. Instead, the prosecutor goes to the grand jury, presents a very weak or a pro-defenses case and thereby essentially [destroys the case](#) and [the grand jury doesn't indict](#) and the prosecutor can say, "Look, I couldn't go forward because the grand jury won't let me."

Betancourt:

Ric says there are legitimate reasons for a prosecutor to put a case involving police conduct before a grand jury. Jurors tend to [believe police and trust their motives](#) more than they do average citizens. They're hard cases to win. Prosecutors might use grand juries as a way to test the waters before a trial. Even if that's what Creuzot was doing in Jantzen's case, David doesn't think that lets him off the hook.

Henderson:

If you or I shot someone in the chest with a riot gun, not only would we be charged with aggravated assault with a deadly weapon, the prosecutors also would be prepared to reduce that charge to an assault to proceed to trial. You can ask, "Is this a misdemeanor assault or is this an aggravated assault?" If it is a misdemeanor assault and the DA could draw that conclusion, that is entirely in his hands whether or not he wants to pursue a charge against that officer. He does not need a grand jury to do that, and yet, he only presented the case to the grand jury and as soon as the grand jury voted no, he didn't do anything else. He didn't even explain why he wasn't considering filing a misdemeanor charge. That behavior to me indicates that you wanted to hide behind the grand jury the entire time.

Betancourt:

I tried to ask DA Creuzot to respond to these criticisms, but he declined to talk to me. In an email. His spokesperson would say only that quote, "It is a policy of the Dallas County district attorney's office that all officer involved and security guard shooting cases as well as death and custody cases be presented to a grand jury for their independent consideration." I ran that by Ric in an email and he responded that he thinks that could be a good policy, always letting a grand jury decide in police shooting cases, but it doesn't mean much unless the prosecutor explicitly and intentionally gives the grand jury that power by presenting a complete case. Because prosecutors can use their secrecy as political cover, some say grand juries should be abolished altogether. Why not let prosecutors who ultimately have to try cases decide whether to press charges and in the full light of day?

Simmons:

And that's at a full proceeding with a defense attorney, the defendant's present, is allowed to testify, defense attorney cross examines prosecutor's witnesses, and you have a judge or a magistrate who is overseeing it who makes their own decision about whether or not probable cause exists.

Betancourt:

But Ric says the problem isn't really grand juries. It's prosecutors.

Simmons:

Now, when we criticize the grand jury for police brutality or lethal use of force cases, it's ironic because the grand jury is not meant to bring charges when we want them to bring charges. It's meant to prevent prosecutors from bringing charges when they shouldn't. The public prosecutor over that the last century has gotten more respect, more responsibility, more power, and we've been okay with that. Whoever we are as society have decided we don't need that kind of check. We have essentially the fulcrum of the whole criminal justice is on the prosecutor.

Betancourt:

Ric says some of the special rules around grand juries are part of what makes them vulnerable to manipulation by the prosecutor. Some states [allow jurors to hear evidence that would be inadmissible](#) in a trial court. For example, some let police reports stand as evidence without a witness present to back them up. Some let [prosecutors bring charges to a grand jury multiple times](#) until they get the result they want, but those rules aren't set in stone. There's nothing in the constitution about grand juries being secret or that there can't be an attorney present to oppose the prosecutor.

State legislators, elected lawmakers, have the power to change all of that. That kind of reform could have far reaching effects in the criminal legal system, not just in police abuse cases. Earlier in this season, we talked about how prosecutors avoid having to go to trial by pressuring defendants to plead guilty. Strengthening the grand jury or, for that matter, abolishing it would be one way to hold prosecutors accountable for charging defendants in the first place.

Simmons:

Either one would force the prosecutor to present his or her evidence at an early stage of the proceeding before plea bargaining and would help to ensure that people aren't put into that plea bargaining system unless they actually or likely did commit a crime.

Betancourt:

If these reforms were put in place, especially if grand jury proceedings were more transparent, prosecutors might be more likely to do in police abuse cases what they do in other cases, try to convince the grand jury that a crime has been committed it. When they left the courthouse, Jantzen, Dondi and Parker were told it would take a week to hear a decision from the grand jury.

Nevilles:

We all went out for drinks afterwards to decompress and we get a call from the DA's office pretty within two hours I want to say, and they gave us the result.

Verastique:

He was like, "I regret to inform you that unfortunately, the jury decided not to indict Rudloff." I just immediately started crying. I think I sat down on the ground.

Nevilles:

We're all hunched over the phone and we're listening and we start crying and then we call David and David was just as upset.

Morse:

It's always shocking and never surprising.

Verastique:

Yeah. Maybe one time they're going to do the right thing. I didn't hold my breath, but I guess just hearing it. It's just like we've been doing this for some years now, back and forth with the police and-

Morse:

Two years.

Verastique:

... talking and testifying and telling people our story and it came to something then, but it was nothing.

Betancourt:

Jantzen told me she didn't blame the grand jury members themselves for the result.

Verastique:

Yeah, I think that's a big ask for just a rando everyday citizen. If you were to ask me to be on a grand jury before I testified, I would've had no idea what that looked like, how skewed it was. They bank on the fact that everyday citizens don't know what's going on. That's what they hope for. That's what they need. That's what they have to have. That's why everything's super secret.

Betancourt:

Throughout my interviews with Jantzen, Dondi and Parker, David's colleague Sebastian had to sit with them to make sure they didn't tell me anything about the grand jury proceeding itself. It frustrated them, like how not being able to discuss race had frustrated them as they tried to tell their story to the grand jury.

Verastique:

I don't know how you cross that line where you're just like, "Tell the people that the system's trash." We already know-

Morse:

But don't tell them.

Verastique:

... but here are the facts, but also don't tell them. Yeah.



Morse:

If you do tell them, then there will be a price to pay.

Verastique:

Which that in itself is just testament to how the system is rigged. Super secrecy like we're on some big murder trial. It is what it is. A police officer assaulted someone, but why... Yeah, I don't know. All super secret. It just seems very purposeful, very plotted.

Morse:

Calculated.

Verastique:

To get a specific result, and that's exactly what happened.

Betancourt:

A few months after the grand jury heard Jantzen's case, district attorney Creuzot [charged three more Dallas area police officers](#) for their conduct during the 2020 protests. One is accused of shooting a protestor in the face with a rubber bullet, shattering his cheekbone and partially blinding him. Another protestor lost an eye and seven teeth when one of the officers allegedly shot him in the face with a rubber bullet. The grand jury chose to indict all three of the officers, but David doesn't see that as a win for protestors.

Henderson:

In the end, only the most egregious cases are going to be pursued. You either had to have your eye shot out or bones in your face broken and have been willing to come forward and hire a lawyer for the DA to do anything about protecting your First Amendment rights, and honestly, the police shouldn't have to shoot your eye out in order for them to protect you as a peaceful protestor who is subjected to police abuse, but that's basically what happened here in Dallas, Texas.

Betancourt:

There won't be any more indictments. The statute of limitations for potential assault charges against police officers for their conduct during the 2020 protests expired in May 2022.

Miller:

After the Dallas Morning News published photos of the pepper ball shooting, Sergeant Rudloff was transferred to work in the city jail. He was later transferred to the [auto pound](#). The Dallas Police Department later completed a probe into his behavior and cleared him of misconduct without an explanation. Thanks to Mark Betancourt for that story. For more information, toolkits and to download the interactive transcript for this episode, visit [70millionpod.com](http://70millionpod.com). 70 Million is an open-source podcast because we believe we are all part of the solution. We encourage you to use our episodes and supporting materials in your classrooms or organizations and anywhere they can make an impact. You may rebroadcast parts of or entire episodes of our five seasons without permission. Just please drop us a line so we can keep track. 70 million is made possible by a grant from the Safety and Justice Challenge at the MacArthur Foundation and is produced by LWC Studios. This episode was edited by Monica Lopez, and Juleyka Lantigua, who is the show's creator and executive producer. Paulina Velasco is our managing

producer, Erica Huang mixed this episode, Catherine Nouhan fact-checked the story. Michelle Baker is our photo editor. I'm Mitzi Miller. Thank you for listening.

**CITATION:** Betancourt, Mark. "Grand Jury, the Black Box of Justice Reform?" 70 Million Podcast, LWC Studios, November 14, 2022. 70millionpod.com.

Produced by,

